

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION (DAYTON)**

MICHAEL PENNESSI, *et al.*,

Plaintiffs,

v.

**HANGER PROSTHETICS AND
ORTHOTICS, INC.,**

Defendant.

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Case No. 3:17-cv-286

**DEFENDANT’S MEMORANDUM IN OPPOSITION TO PLAINTIFFS’
MOTION FOR REFERRAL TO MEDIATION**

Defendant Hanger Prosthetics and Orthotics, Inc. (“Hanger” or the “Company”) opposes Plaintiffs’ Motion for Referral to Mediation and does not consent to mediation at this time.

Mediation is premature. Although the parties have exchanged written discovery, there are deficiencies with Plaintiffs’ written discovery responses that need to be addressed. After those deficiencies are addressed, Hanger will want to complete Plaintiffs’ depositions before determining whether mediation or other alternative dispute resolution would be worthwhile in this case. Mediation is therefore not appropriate at this time. For this reason alone, Plaintiff’s Motion should be denied.

Plaintiffs’ Motion should also be denied because they failed to comply with S.D. Ohio Local Rule 7.3 before filing it. Under Rule 7.3(b), a party who files any type of motion to which other parties might reasonably give their consent must comply with the procedures set forth in Rule 7.3(a). Rule 7.3(a) requires attempted consultation with an opposing party before a motion is filed and a certification that such consultation has occurred or was attempted in good faith. Plaintiffs did not attempt to consult with Defendant before filing their Motion and did not certify

in their Motion that any such consultation was attempted. For this additional reason, Plaintiffs' Motion should be dismissed.

Based on the foregoing, Hanger respectfully requests that the Court deny Plaintiff's Motion for Referral to Mediation.

Respectfully submitted,

/s/ Chad J. Kaldor

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CERTIFICATE OF SERVICE

I hereby certify that, on this 16th day of January, 2018, the foregoing *Defendant's Memorandum in Opposition to Plaintiffs' Motion for Referral to Mediation* was filed via the Court's electronic filing system. Notice of filing will be performed by the Court's electronic filing system, and Parties may access the document through the Court's electronic filing system.

/s/ Chad J. Kaldor

An Attorney for Defendant

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